

Message Text

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ACTION EB-08

INFO OCT-01 ARA-10 IO-13 ISO-00 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 FRB-03 H-01 INR-10 INT-05 L-03
LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15
STR-07 ITC-01 TRSE-00 USIA-06 SP-02 SOE-02 OMB-01
DOE-11 XMB-02 /117 W
-----111047 040256Z /73

R 032140Z MAR 78
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 6374
INFO AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO
USMISSION GENEVA

C O N F I D E N T I A L SECTION 1 OF 2 BRASILIA 1667

PASS TREASURY FOR BERGSTEN AND HUFBAUER: GENEVA FOR USMTN

E.O. 11652: GDS
TAGS: ETRD, BR
SUBJECT: TREASURY TEAM TALKS IN BRAZIL (2ND OF 3 MESSAGES):
TRADE ISSUES

1. DURING LENGTHY AND FRANK DISCUSSIONS OF TRADE ISSUES 28 FEB -
1 MAR 1978 WITH REPRESENTATIVES OF MINISTRIES OF FINANCE AND
FOREIGN AFFAIRS, U.S. DELEGATION HEADED BY DEPUTY ASSISTANT
SECRETARY HUFBAUER

A. DEFINED IN DETAIL PRELIMINARY U.S. SUBSIDY/CVD PROPOSALS;
B. REVIEWED BRAZILIAN EXPORT INCENTIVES (SUBSIDIES) AND GAVE
U.S. INTERPRETATION OF EACH;
C. EMPHASIZED STRONGLY AND REPEATEDLY THE NEED FOR BRAZIL TO
NEGOTIATE ON SUBSIDY/COUNTERVAILING DUTIES (CVD'S) ON BOTH A MULTI-
LATERAL (MTN) AND BILATERAL (U.S.- BRAZIL) BASIS;
D. EXPLAINED THAT OECD COUNTRIES HAD ARRIVED AT AN ARRANGEMENT
ON EXPORT CREDIT TERMS, WITH THE PRESUMPTION THAT PARTIES TO THE
ARRANGEMENT WOULD BE EXEMPT FROM ACTION UNDER THE PROPOSED SUBSIDY/
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CVD CODE AND INVITED BRAZIL TO REVIEW THE PROPOSAL AND PARTICIPATE
IN THIS ARRANGEMENT;

E. DEFINED IN BROAD TERMS U.S. MTN POSITION AND CONCERNS WITH
RESPECT TO MTN FRAMEWORK ISSUES, (LEGAL FRAMEWORK OF SPECIAL AND
DIFFERENTIAL TREATMENT (S&D); DISPUTE SETTLEMENT AND SURVEILLANCE,
AND IMPORT RESTRICTIONS FOR BOP AND DEVELOPMENT), CUSTOMS VALUATION,
AND GOVERNMENT PROCUREMENT.

2. BRAZILIAN DELEGATE (DORNELLES) INDICATED THAT BRAZIL WISHED TO CONCENTRATE ITS EFFORTS ON SUBSIDY/CVD ISSUE IN MTN CODE NEGOTIATIONS, WITH ANY BILATERAL NEGOTIATIONS POSTPONED UNTIL IT WAS DETERMINED THAT MTN CODE WAS NOT SATISFACTORY OR NOT ACHIEVABLE. RESPONSE TO U.S. MTN POSITION AND QUESTIONS IN OTHER AREAS WAS BASED SOLELY ON BRAZILIAN SUBMISSIONS TO GATT FRAMEWORK GROUP. BRAZILIAN DELEGATE (BOTAFOGO, CHIEF OF COMMERCIAL POLICY DIVISION OF FOREIGN MIN) WAS NOT PREPARED TO GO BEYOND THESE POSITIONS. DORNELLES ALSO INDICATED HE WOULD REVIEW OECD EXPORT CREDITS ARRANGEMENT AND RESPOND AFTER THAT REVIEW.

3. TREASURY DELEGATE (HUFBAUER) INDICATED U.S. MTN SUBSIDY/CVD PROPOSAL WAS PRELIMINARY IN NATURE AND BASED SOLELY ON INDUSTRIAL PRODUCTS (EXCLUDED AGRICULTURAL PRODUCTS). HE THEN GAVE DETAILED DESCRIPTION OF THE TWO PARTS OF THE PROPOSAL: PART I DEFINITIONS AND BROAD RULES AND PART II DISPUTE SETTLEMENT AND SURVEILLANCE PROCEDURES. FOLLOWING THIS PRESENTATION HUFBAUER INDICATED IN STRONG TERMS THAT BRAZIL SHOULD PARTICIPATE ACTIVELY IN THE SUBSIDY/CVD NEGOTIATIONS IN THE MTN AND IN BILATERAL NEGOTIATIONS WITH THE U.S. EXTENSIVE RATIONALE WERE GIVEN FOR MOVEMENT BY BRAZIL ON BOTH FRONTS, INCLUDING THE PROBLEMS OF THE WAIVER DEADLINE, CONGRESSIONAL PRESSURES, THE NEED FOR A TRANSITION AGREEMENT, THE POTENTIAL THAT MTN NEGOTIATIONS WILL NOT BE SUCCESSFUL, AND THE POTENTIAL PROBLEMS ARISING FROM DECISIONS ON THE ZENITH AND U.S. STEEL VAT CASE. HUFBAUER ALSO LISTED IN DETAIL U.S. AND BRAZILIAN CONFIDENTIAL

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EXPORT INCENTIVES AND CLASSIFICATION (OFFENSIVE AND INOFFENSIVE UNDER THE U.S. SUBSIDY/CVD PROPOSAL). FOR THE U.S. THESE INCLUDED DISC, EXIMBANK OPERATIONS, TRADE FAIRS AND SHOWS, DUTY DRAWBACKS, AND REBATES OF EXCISE TAXES. UNDER THE U.S. PROPOSAL DISC AND TO A LESSER DEGREE EXIMBANK OPERATIONS ARE PROBLEM AREAS. BRAZILIAN EXPORT INCENTIVES INCLUDE DUTY DRAWBACKS, REBATE OF IPI (VAT) FEDERAL TAX, REBATE OF ICM (EXCISE) STATE TAX, AUGMENTED CREDITS OR OVERREBATE OF IPI TAX, EXIMBANK TYPE OPERATIONS, INCOME TAX EXEMPTION FOR EXPORTERS BIFIEX PROGRAM WHICH TIES ENTRY OF MNC'S INTO BRAZILIAN MARKET TO EXPORT GOALS, AND EXCHANGE RATE DIFFERENTIALS. WITH THE EXCEPTION OF THE DUTY DRAWBACK AND REBATE OF IPI/ICM TAXES, ALL THE OTHER BRAZILIAN EXPORT INCENTIVES ARE CONSIDERED PROBLEM AREAS.

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C O N F I D E N T I A L SECTION 2 OF 2 BRASILIA 1667

PASS TREASURY FOR BERGSTEN AND HUFBAUER: GENEVA FOR USMTN

4. BRAZILIAN SPOKESMAN (DORNELLES) AGREED WITH TREASURY SPOKESMAN'S CHARACTERIZATION OF BRAZILIAN EXPORT INCENTIVES AND INDICATED THAT INFORMATION ON ALL THEIR INCENTIVES HAD ALREADY BEEN GIVEN TO TREASURY AS PART OF SUBMISSION ON THE CVD CASE ON SHOES. DORNELLES INDICATED HOWEVER THAT A NUMBER OF THESE INCENTIVES WERE OF LITTLE PRACTICAL CONSEQUENCE. WITH REGARD TO SUBSIDY/CVD NEGOTIATIONS, DORNELLES INDICATED THAT BRAZIL WILL WILL ACTIVELY PARTICIPATE IN THE MTN NEGOTIATIONS OF A SUBSIDY/CVD CODE, PRECONDITIONED ON S&D TREATMENT, BUT WOULD NOT WANT TO ENTER INTO SIMULTANEOUS BILATERAL NEGOTIATIONS ON SUBSIDY/CVD WITH THE U.S. THE BRAZILIAN POSITION IS THAT BILATERAL NEGOTIATIONS SHOULD BE POSTPONED 4-6 MONTHS UNTIL THE OUTLINES OF THE MTN SUBSIDY/CVD CODE IS KNOWN. IF AN MTN CVD CODE IS UNSATISFACTORY OR NOT ACHIEVABLE THEN BRAZIL WOULD WELCOME BILATERAL NEGOTIATIONS. ACCORDING TO DORNELLES, THIS IS MINISTER SIMONSEN'S POSITION. DORNELLES INDICATED THAT THE FACTORS UNDERLYING THIS
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POSITION WERE THAT THE MULTILATERAL NEGOTIATIONS ON A SUBSIDY/CVD CODE WOULD BE NO-LESS DIFFICULT THAN A BILATERAL NEGOTIATION, AND THAT A SIMULTANEOUS BILATERAL NEGOTIATION COULD UNDERCUT THESE MULTILATERAL EFFORTS.

5. WHEN REMINDED BY HUFBAUER THAT TIMING WAS CRITICAL, DORNELLES NOTED THAT THE SECRETARY OF TREASURY HAS 12 MONTHS TO MAKE A DECISION ON CVD, AND DELAY OF 4 TO

6 MONTHS WAS IN BRAZIL'S VIEW NOT SIGNIFICANT. BRAZILIAN DELEGATION HAD NO RESPONSE ON SPECIFICS OF U.S. PROPOSAL, BUT IN GENERAL HAD A NEGATIVE VIEW IN PARTICULAR SINCE IT DID NOT PROVIDE FOR S&D. HUFBAUER INDICATED THAT TREASURY DID NOT FAVOR S&D TREATMENT AND NOTED THAT IT WAS NOT IN BRAZIL'S INTEREST TO SEEK S&D TREATMENT. HE STRESSED THAT BRAZIL'S BEST HOPE IS TO MAINTAIN AND STRENGTHEN MFN PRINCIPLES.

6. TREASURY DELEGATE (VUKMANIC) REVIEWED IN BROAD TERMS THE U.S. POSITION ON MTN FRAMEWORK ISSUES AS ELABORATED IN MTN/FR/W/2 AND PRELIMINARY U.S. POSITIONS WITH REGARD TO DISPUTE SETTLEMENT PROCEDURES, AND IMPORT RESTRICTIONS TAKEN FOR BOP AND DEVELOPMENT REASONS. PARTICULARLY EMPHASIS WAS GIVEN TO IMPORT RESTRICTIONS TAKEN BY BRAZIL FOR BOP REASONS, AND LACK OF PROGRESS IN ART XXVIII NEGOTIATIONS.

7. BRAZILIAN DELEGATES WERE GENERALLY NOT PREPARED FOR DETAILED DISCUSSIONS OF ISSUES AND RESPONDED PRIMARILY ON THE BASIS OF PAPERS SUBMITTED BY BRAZILIANS TO THE MTN FRAMEWORK GROUP (MTN INFO #60). BRAZILIAN SPOKESMAN (BOTAFOGO) INDICATED THEY ARE NOW PREPARING POSITIONS FOR NEGOTIATIONS OF THESE ISSUES, INCLUDING AN ARTICLE XXVIII PROPOSAL AND INTEND TO HOLD BILATERAL CONFIDENTIAL

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DISCUSSIONS WITH U.S. MTN DELEGATION IN GENEVA ON THESE AREAS DURING THE LAST WEEK IN MARCH.

8. THE GENERAL THEME TAKEN BY BRAZILIANS ON THESE ISSUES (EXCLUDING ARTICLE XXVIII) IS EXPECTED TO REMAIN: INSISTENCE ON SPECIAL AND DIFFERENTIAL TREATMENT AND NON-EQUIVALENCE OF RECIPROCITY FOR BRAZIL AS WELL AS GREATER FLEXIBILITY IN SAFEGUARD ACTIONS FOR BOP REASONS. IN PRIVATE, DORNELLES INDICATED THAT SIMONSEN HAS ASKED DORNELLES TO UNDERTAKE A SWEEPING REVIEW OF BRAZILIAN MTN POSITIONS, BUT DORNELLES DID NOT INDICATE WHAT, IF ANY, CHANGES MIGHT BE EXPECTED FROM THIS REVIEW.

9. BRAZILIAN DELEGATE (BOTAFOGO) ASKED TREASURY TO INQUIRE INTO FAA POSITION ON LICENSING SMALL BRAZILIAN AIRCRAFT (BANDEIRANTE) FOR SALE IN U.S.

10. BRAZILIAN DELEGATE (DORNELLES) ASKED TREASURY TO INVESTIGATE WHETHER CERTAIN PARTS OF THE SPECIAL STEEL CUSTOMS FORM INTRODUCED IN CONNECTION WITH THE TRIGGER PRICE MECHANISM (TPM) COULD BE COMPLETED ON A STANDARD BASIS BY GOB. DORNELLES INDICATED THAT MUCH OF THE INFORMATION REQUESTED ON THE FORM WOULD BE KNOWN BY GOB

BUT NOT BY INDIVIDUAL STEEL EXPORTERS. DORNELLES ALSO
INQUIRED AS TO THE PRECISE DEFINITION OF QUOTE RELATED
PARTIES END QUOTE IN THE CONTEXT OF THE TPM.
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